

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

GAYLA LUTYK, AS PERSONAL  
REPRESENTATIVE OF THE  
DECEDENT ASHLEY O’CONNOR

Plaintiff

v.

OCEAN CITY, MARYLAND c/o  
MAYOR AND CITY COUNCIL

Defendant

CASE NO. 1:19-CV-02179-ADC

\* \* \* \* \*

**ANSWER TO COMPLAINT**

Defendant OCEAN CITY, MARYLAND c/o MAYOR AND CITY COUNCIL

(“Defendant” or “Ocean City”), by and through its attorneys, Bruce F. Bright and Ayres, Jenkins, Gordy & Almand, P.A., hereby answers the Complaint filed in the above-captioned action, stating:

1. Defendant lacks knowledge or information sufficient to admit or deny the allegations of paragraph 1, and therefore denies the allegations of paragraph 1.
2. Defendant lacks knowledge or information sufficient to admit or deny the allegations of paragraph 2, and therefore denies the allegations of paragraph 2.
3. Defendant denies the allegations in paragraph 3.
4. Defendant admits that there is diversity between Plaintiff and the “Mayor and City Council of Ocean City,” which (pursuant to section C-201 of the municipal charter) is the public corporate entity referred to as “Ocean City, Maryland,” but otherwise denies the allegations in paragraph 4.

5. Defendant admits as to paragraph 5.

6. Defendant admits as to paragraph 6.

7. Defendant admits that the decedent died on or about July 31, 2017, but otherwise denies as to the allegations in paragraph 7.

8. Defendant denies the allegations in paragraph 8.

9. Defendant admits that the decedent died on or about July 31, 2017, but otherwise denies as to the allegations in paragraph 9.

10. Defendant admits that, generally speaking, its residents and visitors are permitted to use and enjoy the beaches of Ocean City at certain times of the day, but otherwise denies the allegations in paragraph 10.

11. Defendant denies the allegations in paragraph 11.

12. Defendant denies the allegations in paragraph 12.

13. Defendant denies the allegations in paragraph 13.

14. Defendant denies the allegations in paragraph 14.

15. Defendant denies the allegations in paragraph 15.

16. Defendant denies the allegations in paragraph 16.

17. Defendant denies the allegations in paragraph 17.

18. Defendant denies the allegations in paragraph 18.

19. Defendant denies the allegations in paragraph 19.

20. Defendant denies the allegations in paragraph 20.

**AFFIRMATIVE AND OTHER DEFENSES**

1. Defendant asserts the defense of assumption of risk.
2. Defendant asserts the defense of contributory negligence.
3. Defendant asserts the defense of estoppel.
4. Defendant asserts the defense of illegality.
5. Defendant asserts the defense of laches.
6. Defendant asserts the defense of release.
7. Defendant asserts the defense of *res judicata*.
8. Defendant asserts the defense of statute of limitations.
9. Defendant asserts the defense of waiver.
10. The Complaint fails to state a claim against Defendant upon which relief can be granted.
11. Plaintiff's claim(s) against Defendant are barred by sovereign/governmental immunity.
12. Plaintiff's claim(s) against Defendant are barred by statutory immunity.
13. Plaintiff's claim(s) against Defendant are barred by qualified immunity.
14. Plaintiff's claim(s) against Defendant are barred by public official immunity.
15. Defendant did not commit the wrongs alleged.
16. Defendant owed no duty to the decedent, who was trespassing and violating applicable law by being on the Beach at the time of events alleged in the Complaint.
17. Defendant is not liable as alleged.
18. "Ocean City, Maryland" is not a legal entity that can be sued.

**RESERVATION AS TO ADDITIONAL DEFENSES**

Defendant reserves the right to assert additional defenses based on information learned or obtained during discovery.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant demands: that judgment be awarded in Defendant's favor and against Plaintiff as to all of Plaintiff's claims as advanced in the Complaint; that such claims be dismissed with prejudice, in their entirety; that Plaintiff be denied all of the relief it seeks in this case; that Defendant be awarded costs and expenses, including reasonable attorney's fees, incurred in this matter; and that Defendant be awarded such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Bruce F. Bright  
Bruce F. Bright (Bar No. 27236)  
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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 13<sup>th</sup> day of September, 2019, the foregoing Answer to Complaint was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Bruce F. Bright  
Bruce F. Bright